

### § 544.33

(a) Leisure activities are designed to attract inmate participation regardless of ethnic, racial, age, or sex difference, or handicap considerations, and to enhance the potential for post-release involvement.

(b) Leisure activities are designed to ensure that an inmate with the need has the opportunity to complete one or more activities (see 28 CFR 544.81).

### § 544.33 Movies.

If there is a program to show movies, the Supervisor of Education shall ensure that X-rated movies are not shown.

### § 544.34 Inmate running events.

Running events will ordinarily not exceed 10 kilometers or 6.2 miles. Appropriate medical staff and fluid supplies (e.g., water) should be available for all inmate running events.

### § 544.35 Art and hobbycraft.

(a) An inmate engaged in art or hobbycraft activities may obtain materials through:

(1) The institution art program (if one exists);

(2) The commissary sales unit;

(3) Special purchase commissary orders, if the sales unit is unable to stock a sufficient amount of the needed materials; or

(4) Other sources approved by the Warden.

(b) Each inmate shall identify completed art or hobbycraft products by showing the inmate's name and register number on the reverse side of the item.

(c) Completed or abandoned art or hobbycraft articles must be disposed of in one of the following ways:

(1) Upon approval of the Warden, by giving the item to an authorized visitor. The quantity of items will be determined by the Warden.

(2) By mailing the item to a verified relative or approved visitor at the inmate's expense.

(3) By selling, through an institution art and hobbycraft sales program, if one exists, after the institution price committee has determined the sale price.

(4) Other methods established by the Warden.

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(d) *Restrictions.* Art and hobbycraft programs are intended for the personal enjoyment of an inmate and as an opportunity to learn a new leisure skill. They are not for the mass production of art and hobbycraft items by artists or to provide a means of supplementing an inmate's income.

(1) The Warden may restrict, for reasons of security and housekeeping, the size and quantity of all products made in the art and hobbycraft program. Paintings mailed out of the institution must conform to both institution guidelines and postal regulations. If an inmate's art work or hobbycraft is on public display, the Warden may restrict the content of the work in accordance with community standards of decency.

(2) The Warden may set limits, in compliance with commissary guidelines, on the amount of money an inmate may spend on art or hobbycraft items or materials.

(3) The Warden may restrict for reasons of security, fire safety, and housekeeping, the use or possession of art and hobbycraft items or materials.

(4) Appropriate hobbycraft activities shall be encouraged in the inmate living areas. However, the Warden may limit hobbycraft projects in the cell/living areas to those which can be contained/stored in provided personal property containers. Exceptions may be made for such items as a painting where the size would prohibit placement in a locker. Hobbycraft items must be removed from the living area when completed unless they are approved as personal property.

(5) The Warden shall require the inmate to mail completed hobbycraft articles out of the institution at the inmate's expense, or to give them to an authorized visitor within 30 days of completion, or to dispose of them through approved sales. However, articles offered for sale must be sold within 90 days of completion, or must be given to an authorized visitor or mailed out of the institution at the inmate's expense.

(6) Where space and equipment are limited and demand is high, the Warden may set limits on the amount of time an inmate may use a hobbycraft facility, e.g., the Warden may limit an

inmate's use of any workshop or classroom to six months to make room for new students. Hobbycraft participants may be rotated to allow for maximum utilization of the resources.

(7) Disciplinary action may be taken against inmates found with unauthorized hobbycraft materials in their possession. This action may include the removal of the inmate from the hobbycraft program.

### Subpart E—Mandatory English-as-a-Second Language Program (ESL)

SOURCE: 59 FR 14724, Mar. 29, 1994, unless otherwise noted.

#### § 544.40 Purpose and scope.

Pursuant to the Crime Control Act of 1990 (18 U.S.C. 3624(f)), limited English proficient inmates confined in Federal Bureau of Prisons institutions are required to attend an English-as-a-Second Language (ESL) program until they function at the equivalence of the eighth grade level in competency skills. Waivers to this requirement may be granted by the Warden in accordance with §§ 544.41 and 544.42.

#### § 544.41 Applicability: Who must attend the ESL program.

(a) All Federal prisoners who have limited English proficiency skills shall attend an ESL program except:

- (1) Pretrial inmates;
- (2) Inmates committed for purpose of study and observation under the provisions of 18 U.S.C. 4205(c) or, effective November 1, 1987, 18 U.S.C. 3552(b);
- (3) Sentenced aliens with a deportation detainer;
- (4) Other inmates whom, for documented good cause, the Warden may excuse from attending the ESL program.

(b) Staff shall document in the inmate's education file the specific reasons for not requiring the inmate to participate in the ESL program.

#### § 544.42 Procedures.

(a) The Warden at each federal institution shall ensure that inmates who at their initial classification are found to be limited English proficient are en-

rolled in the ESL program. Determination of limited English proficiency is made by staff on the basis of personal interviews and placement testing.

(b) An inmate who returns to the Federal Bureau of Prisons on a new sentence or as a parole violator, and who has not achieved or is unable to demonstrate verified achievement of the eighth grade level, must provide verification or enroll in the ESL program until that inmate achieves such a grade or is granted a waiver for cause.

(c) The Warden or designee shall assign to an education staff member the responsibility to coordinate the institution's ESL program. The ESL coordinator or designee shall meet with the inmate for the purpose of enrolling the inmate in the ESL program. The ESL coordinator shall be responsible for the completion of the official ESL Program Record, and shall place it in the inmate's education file.

(d) Ordinarily, there will be no time limit for completion of the ESL mandatory program. However, after 240 instructional hours of continuous enrollment in an ESL program, excluding sick time, furloughs, and other excused absences from scheduled classes, the Warden shall have the authority to grant a waiver from further program participation. This waiver may be granted when it is determined that the inmate will not benefit from further instruction. Each exemption determination shall be made on an individual basis and shall be supported by documentation.

[59 FR 14724, Mar. 29, 1994, as amended at 62 FR 39916, July 24, 1997]

#### § 544.43 Incentives.

The Warden or designee shall establish a system of incentives to encourage an inmate to meet the mandatory ESL program requirements.

#### § 544.44 Disciplinary action.

As with any other mandatory programs, such as work assignments, staff may take disciplinary action against an inmate when that inmate refuses to enroll and participate in, or to meet the minimum requirements of the mandatory ESL program.